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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 WARSAW ORTHOPEDIC, INC.;
11 MEDTRONIC SOFAMOR DANEK
12 USA, INC.; MEDTRONIC PUERTO
13 RICO OPERATIONS COMPANY;
14 and OSTEOTECH, Inc.,

15 Plaintiffs,

16 vs.

17 NUVASIVE, INC.,

18 Defendant.

CASE NO. 12-cv-2738-CAB (MDD)
ORDER ON NUVASIVE'S MOTION
TO STAY
[Doc. No. 58]

19 This matter came before the court today for hearing on NuVasive, Inc.'s motion
20 to stay the case as to the '430 and '997 patents. [Doc. No. 58.] For reasons set forth at
21 the hearing, NuVasive's motion is **GRANTED IN PART AND DENIED IN PART**.

22 The case is stayed as to United States Patent No. 8,021,430.¹ NuVasive's motion
23 as to United States Patent No. 8,251,997 is **DENIED IN PART**, without prejudice to
24 renewal pending the Patent Office's decision whether to grant *inter partes* review of
25 the '997 patent. The parties shall contact the undersigned's chambers, **within seven**
26 **days** of the Patent Office's decision, to schedule a status conference.² The court
27 **VACATES** the deadlines for the '997 patent related to Invalidity Contentions and

28 ¹ Plaintiffs do not oppose a stay as to this patent.

² The parties anticipate that the Patent Office will reach determination by September 25, 2013.

1 Preliminary Claim Constructions. *See* Doc. No. 60.

2 **IT IS SO ORDERED.**

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5 DATED: May 30, 2013



6 **CATHY ANN BENCIVENGO**
7 United States District Judge
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